

CITY OF OREM
CITY COUNCIL MEETING
56 North State Street Orem, Utah
August 26, 2014

3:00 P.M. WORK SESSION – PUBLIC SAFETY TRAINING ROOM

CONDUCTING Mayor Richard F. Brunst, Jr.

ELECTED OFFICIALS Councilmembers Hans Andersen, Tom Macdonald,
Mark E. Seastrand, and David Spencer

APPOINTED STAFF Jamie Davidson, City Manager; Brenn Bybee, Assistant
City Manager; Richard Manning, Administrative Services
Director; Greg Stephens, City Attorney; Chris Tschirki,
Public Works Director; Karl Hirst, Recreation Director;
Scott Gurney, Fire Department Director; Gary Giles, Police
Department Director; Bill Bell, Development Services
Director; Charlene Crozier, Library Director; Sam Kelly,
City Engineer; Jason Bench, Planning Division Manager;
Ryan Clark, Economic Development Manager; Steven
Downs, Assistant to the City Manager; and Taraleigh Gray,
Deputy City Recorder

EXCUSED Brent Sumner and Margaret Black

UPDATE – Master Plans

Chis Tschirki introduced the members serving on the Public Works Advisory Commission. Mike Collins, Bowen Collins and Associates, presented to staff and Council an update on the development of master plans for the City's utility systems.

Mr. Collins indicated the intent was to analyze existing systems to look for ways to streamline and make them more efficient, in addition to developing ways for the City to plan for capital improvement.

Orem was forecasted to have a 75 percent increase in water delivery by 2060. Currently Orem was using every drop of spring water and ground water. Water used within the city also came from Jordanelle reservoir. Water service within the city flowed from east to west, and the biggest challenge the City would have was finding ways to accommodate all the growth that was happening along the west side of Orem. The City would need to increase conveyance from east to west. The water transmission lines were already near capacity which also needed consideration.

Mr. Collins said Orem's current water infrastructure system was valued at \$300 million. The industry standard was to replace that type of utility system every 50 years. In order to ensure a replacement plan every 50 years, the City would need to set aside \$6 million every year to reach that goal. The funds set aside for capital improvement over the last 8 years was \$400,000 which

equated to a capital replacement plan of 600 years. Mr. Collins said that, similar to water flow, the existing sewer pipes in the city were small pipes on the east side with everything flowing west. Mr. Collins noted that there were good trunk lines on the west side, which was good for growth. The City's existing sewer system was valued at \$260 million, and a replacement plan of 50 years would require the City to set aside \$5 million per year to reach that goal. Over the last 8 years, the City had set aside only \$600,000 toward repair and replacement.

Mr. Tschirki added that the major trunk lines in the southwest unincorporated part of Orem would be paid for as the area developed. The treatment plant expansion in Fiscal Year 2011 was made possible by a bonding opportunity through the State. He noted the higher amount on the PowerPoint presentation and said the treatment plan expansion was the reason for the larger figure.

Mr. Collins discussed the City's Storm Water system. He said Orem had a unique system in that a lot of it was handled by sumps. There were also some conveyance pipes through the city. Because of the way the system was set up, it put storm water into the ground, which eventually would turn into ground water. One challenge was untreated storm water coming in contact with ground wells supplying drinking water. The City would need to protect the recharge and impact zones of those wells. In the future, the City should work toward getting areas out of sumps and into normal conveyance.

Mayor Brunst asked if there were wells inside the city.

Mr. Tschirki said there were approximately 9 wells in the city, of which 5 wells produced over 4,000 gallons of water per minute. The wells ranged in depth to about 600-700 feet.

Mr. Collins said the value of the City's storm system today was approximately \$100 million. To replace the system over a 50-year plan, the City would need to set aside \$1.6 million per year for capital improvements to uphold that plan. He reiterated that added growth within Orem would pay for itself.

Mr. Macdonald asked what the increase would be per utility bill account in order to reach the overall to \$5.5 million deficit for capital improvement.

Mr. Tschirki said it was about \$20 per month, if added to each existing utility account. Increases per rata, like the pipe diameter increase from FY13-14 going into FY14-16 would be about \$12 per month per utility account.

Mr. Macdonald said the amount of increase in those methods was substantial.

Mr. Collins said there were many ways to charge for water. Some municipalities charged the residents summer rates during the entire year, while others charged for water depending on the season. There were ways of making big users pay more which would leave the retired widow paying less.

Mr. Andersen how much of the sump water got down into the wells and if anyone had tracked where the water was coming from.

Mr. Collins said the recharge zones were at the mouth of the canyon, and it was hard to tell where the water came from. He said, in summary, that major improvements were needed, and that an adequate replacement budget needed to be defined for each of the three utility systems discussed.

Mr. Macdonald asked about large complexes paying only two water base rates or two sewer base rates, when there were multiple units within the complex using the utilities. He asked what was being done to address the issue and how long it would take to fix it.

Mr. Tschirki said there was a planned City Council work session in the near future to discuss that. He acknowledged that there were several hundred connections in the city where sewage conveyance came from multiple units. Mr. Tschirki said staff was collecting data to have accurate information to share in fixing the problem. The issue had been a decades old problem, and the staff was eager to look for ways to address the problem.

Mr. Davidson said the current City Council's enthusiasm to address those types of citywide issues had exceeded the enthusiasm of previous councils. Staff was anxious to get information to the Council but wanted to do so in a way that the Council would have all the information upfront. Mr. Davidson explained that January 1st was when the information should be available. The discussion the Council should have would be to consider and determine how to move forward with an implementation plan, whether it was a step-in plan, or an abrupt increase. Due to the cost involved, the City could not do it all at once.

Mayor Brunst said a vision and a plan should be put together. Addressing the issue should not just be a knee-jerk reaction.

Mr. Tschirki said staff was sifting through 22,000 records from a utility billing perspective and sewer GIS (geographic information system) perspective to gather the information to present to the Council.

Mr. Collins said he paid the same sewer charge in a condo as he did in the house he had lived in before. In comparison, Sandy City had a ten year step increase plan to get to where they needed to go in terms of utility billing rates.

Mr. Davidson said Sandy had a ten year plan with a 6.5 percent rate per year, and Orem's was much different in that it was more.

Mr. Collins said Orem was not the first city to be in this situation.

Mr. Seastrand said there were three legs to the stool:

- The Council needed to consider what the plan was to the specific replacement
- Whether the ten-year plan would generate funding
- How maintenance and replacement would be implemented.

Mr. Collins said the age of the utility system and its leak history were indicators of replacement need for the water system. For the sewer system, the length and age of the pipes and back-up occurrences were indicators of the need for replacement.

Mr. Davidson said, if an earthquake happened here, the results would be terrifying due to the age of Orem's infrastructure.

Mayor Brunst asked about lining the pipes.

Mr. Collins said that was possible. More use could come from lining an existing pipe needing repair. He said Salt Lake City did something similar. Lining pipes can help keep costs lower.

Mr. Tschirki said staff had toured a pipe plant in Lindon that manufactured a polypropylene pipe. They were looking at plastic pipe alternatives, where appropriate, because there was benefit in the noncorrosive material.

In addition to the creation of a capital replacement plan, Mr. Davidson said the next phase was to create utility and transportation master plans. Once the documents were complete, then move to capital replacement plan, identify areas of concern, and then place on 5 year calendar and map out with anticipated revenue the projects that would be addressed.

Mayor Brunst asked how Utah County rated for availability of water.

Mr. Collins said the age of settlements yielded better water rights. Provo had the best water right and supply. Cities on the west side of Utah County typically had less supply.

In regard to utility rates, Mr. Davidson said some communities were paying for access to treatment plants. Orem had its own treatment plant, and therefore did not have to charge for that access. Rates did not directly reflect a municipality's quality of infrastructure.

Mr. Tschirki provided to the Council a tentative plan for future discussions regarding capital improvements.

DISCUSSION – CARE Ordinance

Based on the recommendation of the City Council, a draft ordinance for the CARE Advisory Committee was presented. Mr. Downs reviewed the information provided by staff at the City Council premeeting held on July 8, 2014.

Mayor Brunst asked about setting up one commission with one member serving from each of the existing Arts Council and the Recreation Advisory Commission.

Mr. Hirst said he understood it differently, that the newly formed CARE Advisory Commission would be comprised of seven new members, with individuals serving on the commission who were involved in the recreation and arts communities, but who were not serving concurrently on either of the Arts Council or the Recreation Advisory Commission.

Steven Downs said there would be a conflict of interest for someone to sit on both boards.

Mr. Andersen asked if people could be added to the Recreation Allocation Advisory Commission (RAAC).

Mayor Brunst said applications had been sent and filled out, and returned to the Council. He said he wanted to vote on the RAAC but wanted each of the Council members aware.

Brenn Bybee, Assistant City Manager, said there had been some issues with the online applications that had been submitted. Some applications that were filled out online got lost in the code. Staff was working on locating them.

Mr. Macdonald suggested staff create a list of names from the applications received to aid the Council in narrowing the lists down to select individuals to fill the vacancies.

Mayor Brunst went over the RAAC. He said one City employee, three individuals from recreation groups, and three at-large citizens would serve on the commission. He said he wanted to have an application cut-off period for two weeks, and wanted the entire Council to be present to vote on it.

UPDATE – Bus Rapid Transit (BRT) – Utah Transit Authority (UTA), Mountainland Association of Governments (MAG), and LYRB (Lewis & Young)

Mr. Davidson said the opportunity to meet with the organizations involved was at the request of the City Council.

Janelle Robertson, UTA Project Manager, gave an overview of the proposed Bus Rapid Transit (BRT) project.

Mr. Andersen asked if University Parkway would be widened to facilitate the BRT.

Mrs. Robertson said it would.

Mr. Davidson added that it would be widened on both sides of the road along on the diagonal between Orem and Provo. The City had concerns about landscaping and that what was being proposed had not yet been approved by Orem. The plan being presented reflected the alignment that the Provo council had approved. The Federal Highway Administration (FHA) had approved the highways, but the Federal Transit Administration (FTA) had not yet approved the proposed plans.

Mayor Brunst asked how many cars went by per day.

Mrs. Robertson said there were around 40,000 to 50,000. She said UDOT and UTA wanted to make the necessary improvements all part of one project, as there were cost savings to do the projects all together.

Mr. Andersen asked if the widening was in writing.

Mrs. Robertson said there were certain requirements UTA had to follow in order to secure grant funding. UTA was working on the preliminary design.

Mr. Andersen said he was worried about taking out trees and grass. He said he didn't see the ridership that UTA was suggesting.

Mayor Brunst said there was similar concern with the light rail in Salt Lake City, as well as FrontRunner. But those concerns had been put to rest as ridership numbers were high.

Mr. Davidson said the discussion was moving toward trying to understand the potential impacts. There were more conversations that would take place. He acknowledged Mr. Andersen's concern about trees, saying the City would need to allow the process of creating a proposal to move forward to come up with a proposal that would be to the City Council's liking.

Mrs. Robertson explained that the bus facility would be expanded. UTA was doing what they could to get a grant to support the project. Federal funding was an estimated \$75 million of the project. There were many environmental documents necessary to prepare to ensure no fatal flaws existed in the proposal. Should UTA get the federal grant money, UTA would know for sure by February or March and proposed construction for the project would begin shortly thereafter.

Mrs. Robertson explained that \$36 million would come from UDOT, \$75 million would be federal funds, \$65 million would come from Utah County, namely Mountainland Association of Governments (MAG), and the match in moneys would make up the rest of the funds needed to make the project happen.

Mrs. Robertson allowed time for Andrew Jackson, Executive Director of MAG, to provide a presentation to the Council regarding the County's funds for the project. He distributed a "BRT Frequently Asked Questions" document to the Council, which included the following information:

What is BRT?

Bus Rapid Transit (BRT) was a bus-based mass-transit system. A true BRT system generally had specialized design, services and infrastructure to improve system quality and remove the typical causes of delay. Sometimes described as "surface subway," the BRT aimed to combine the capacity and speed of light rail or metro with the flexibility, lower cost, and simplicity of a bus system.

Why BRT?

Simply put: It was the most cost-efficient and effective transit route in the system. It would connect the Frontrunner stations to Orem and Provo with each other and with UVU, BYU and the malls.

How was transit funded?

In November of 1984, Provo and Orem put a measure on the general election ballot asking voters their opinion on enacting a ¼ cent sales tax for Mass Transit. The measure passed. The voters of Orem were just over 57% in favor of the tax. In subsequent years voters in other communities also approved the tax, with the final six communities coming on board by commission vote in 2011. Additionally, in 2006, 69% of voters approved an opinion question enacting a second ¼ cent tax with 87% for commuter rail, 5% for other transit (including BRT), and 8% for roads. In 2008, the Utah County Commission enacted a 3rd ¼ cent that could be used for transit, but has traditionally been used for roads.

What is the financing plan for BRT?

There were not enough funds in the second ¼ cent to pay for both Frontrunner and BRT as originally voted on by the public. Also, due to existing bonding and other obligations, the first ¼ cent would not have cash flow to pay for BRT until 2028. The financing plan was to bond in 2016, pledging third ¼ cent sales tax, then get paid back starting in 2028 with first and/or second ¼ cent sales tax as originally voted on. Also, the bond would go to 2039, but the transit tax would take over the bond payments starting in 2028.

Why not wait until 2028 when there was money in the first 1/4 cent to pay for it?

The vote was in 2006, and if delayed until 2028 it would be 22 years after the vote before construction could be started. Those who voted it in and were paying for it now would not get the benefit from the tax. Additionally, costs would increase and there would still be a need to bond. Municipal finance theory discouraged negative arbitrage (taxing and investing long-term, which may return less than inflation). If people paid the tax, they should get the benefit.

If the tax dollars weren't used for BRT, could it be used for road construction?

No, the first ¼ cent was voted on by the public and could only be used for transit. 92% of the second ¼ cent was also voted on by the public to only be used for transit, and 5% of which was for BRT. It would require going back out for a vote of the public to use those funds, which would ultimately pay for BRT, for roads.

Was there a guarantee that UTA would start making payments after 2028?

Nothing was guaranteed. A contract would be in place with UTA to pay back the third ¼ cent with first ¼ cent funds before moving forward. Whether it was first, second, or third ¼ cent funds, it was still Utah County Tax payers who paid the tax, not UTA.

Was there a list of roads in Orem and Provo that BRT funds would be spend on to help widen or improve?

Provo had placed a road tax on their utility bill which may not have happened if more county funds could be used to improve several roads. The federal transit dollars could only be used on those roads directly impacted by BRT as indicated in the environmental study, which could be found on the BRT website. The Provo road utility fee was for maintenance of local roads. Maintenance of roads was not an eligible use of the funds. The roads would have to be regional in nature to have these funds used on them.

How much did the fare box pay for the bonds, equipment, and operating expenses for the Frontrunner, BRT, and UTA bus system?

System wide fare-box recovery was about 15% of the total cost. That was why the voters approved several ballot measures to use sales tax dollars to pay for transit.

How much in tax dollars were being spent on commuter rail, Frontrunner, and BRT currently?

In Utah County, each ¼ generated about \$15 million per year. The entire first ¼ cent and 92% of the second ¼ cent were voted by the public to go toward transit. This equated to approximately \$28.8 million.

Why were Mayors in other cities giving up so much of the county funds that they had been spending in previous years?

Like the majority of Utah County voters who voted in favor of the transit tax, the Mayors saw the value in the system and needed to connect these areas with Frontrunner. Some may see that 42% of the total county sales tax was generated in Provo and Orem, while less than 30% of the tax would be used for BRT. The Mayors, along with other elected officials and the public, saw the value of a regional system whether it was roads or transit.

If bonding was taken to the limit and something came up before 2028, would taxes have to rise to cover it?

Bonding would not go to the limit. To get the best interest rate, investors had to see 1.5 times the revenue required to pay for the bonds. Additionally, there was cash flow in other sources (MPO funds, UDOT, second ¼ cent funds) to fund the programmed projects and additional funds for items that may come up.

Would the BRT only benefit students going to the universities?

People not taking the BRT who drove on University Parkway and University Avenue would benefit from a less congested corridor. The useful life of these roadways would also be extended as BRT would take additional vehicles off the road.

Mr. Macdonald asked about ridership and wondered who was on the hook if the ridership was not what was hoped for. He asked if there was a personal guarantor.

Mr. Jackson said that with general obligation bonds, taxes were raised on all taxpayers in the community to make the payments. That differed from revenue bonds. If the money was not there, then it wasn't there to pay the revenue bond. There was no obligation to raise taxes to pay for it.

Mr. Manning said there was a distinct portion of sales tax that would go to it.

Jason Burningham, with Lewis and Young, said the third ¼ cent was sales tax revenue collected by Utah County for the purpose of transportation and transit. What would be pledged to a bond holder would be that revenue stream. The bond holder would be looking at the current coverage. Utah County had already issued bonds using third ¼ cent funds. There was plenty of coverage and the only recourse would be the revenue stream, as there was not a way to control the revenue stream.

Mayor Brunst asked how ridership translated to cars on the road.

Mr. Jackson restated that it could extend life of the road.

Mrs. Robertson said it would increase capacity. Traffic may not go down due to latent demand, but that the corridor would increase in overall capacity to carry people.

Mr. Jackson said Provo/Orem was an economic engine. There was importance in making sure no opportunity for failure existed with the proposed BRT project.

Mr. Burningham said that initially the hope for the BRT was that UTA would have the resources in order to finance the project. Lewis & Young was brought in to help with equity of the process. Lewis & Young asked to help by looking at a way to fund the project. A major benefit for the project was the concept of working with UDOT concurrently. There was considerable cost

savings in doing the project at the same time UDOT carried out roadway improvements. The third 1/4 tax could be used as a bridge.

Mr. Burningham then explained the proposed funding plan assumptions as follows:

- \$65 million bond issued by either Utah County or a newly created interlocal agency.
- Utah County would issue subordinate debt, which was secured by third ¼ cent sales tax of \$65 million. Debt service would be paid by the third ¼ cent sales tax from 2016-2027.
- UTA would operate the BRT system with operating and maintenance expense (O&M) costs paid by the third ¼ cent sales tax from 2016-2027.
- UTA would purchase the asset in 2028, paying the debt service on the bonds through 2039 and operating the system with O&M paid by the first 1/4 cent sales tax.
- Cost of O&M was expected to be \$2.5M in 2015 and was estimated to be inflated at 2.4% annually.

Mr. Andersen asked when the County Commission would vote on the bond.

Mr. Burningham said prior to September 9, the commission would enter into a memorandum of understanding, which expressed intent to issue the bonds. That would allow the application and grant to be further looked at. It was hoped that before the end of the year the county would formally issue the bond, or allow the interlocal to do so.

General Obligation Bond Consideration

Mr. Tschirki explained the background behind road construction needs in the City, particularly needs on Center Street. He said there were different methods used to lay asphalt, some being more advantageous than others. Each method had advantages and disadvantages when it came to cost and longevity. He shared images of current road conditions within the City to illustrate his point.

Laura Lewis, Lewis & Young, explained that the City had three outstanding general obligation bonds (for the purpose of roads) from 2004, 2005, and 2006. All were refundable in order to actualize savings for the City. The Council would be asked to accept a resolution on September 9, 2014, to refund the bonds. Ms. Lewis distributed a packet to the Council explaining the preliminary estimated savings. The City was advised to structure the refunding of the bonds so that the City's debt payments were reduced in the current fiscal year, thereby freeing up monies to be used on the original project that the voters voted on, which project was roads. Ms. Lewis said State law did not dictate for any debt issue how those savings were taken. It was not uncommon to structure the savings upfront. If the Council took favorable action on September 9, 2014, it was anticipated that the bond refunding would be complete on or around October 22, 2014.

Mr. Macdonald said the two bonds totaled about \$10 million. He said Lewis & Young was proposing that the payments stay the same, the City would get the \$500,000 up front to use for the necessary road project. He said he gathered that it was essentially more principal with less interest.

Mr. Davidson said this was a mission critical road that needed improvement.

Mayor Brunst said the timing on this was as best as it could be.

Mr. Stephens said there was not a specific provision in State law that talked about using the savings in this manner. The bond counsel would not give a formal opinion on it but Mr. Stephens said he believed it was fair to say that bond counsel thought the City could do this. However, the City should be aware that there was a “worst-case” scenario. If someone successfully challenged the way the City used the savings, what would probably happen was the City would be required to reduce the property tax rate over a period of time that would act as a refund of savings used on the road project on Center Street. Mr. Stephens said that was not a likely scenario, and several other jurisdictions had restructured bonds in a similar way.

Mr. Manning said the solution was for the same amount of money, but the City would get an extra road.

5:30 P.M. STUDY SESSION- PUBLIC SAFETY TRAINING ROOM

CONDUCTING

Mayor Richard F. Brunst, Jr.

ELECTED OFFICIALS

Councilmembers Hans Andersen, Tom Macdonald, Mark E. Seastrand, and David Spencer

APPOINTED STAFF

Jamie Davidson, City Manager; Brenn Bybee, Assistant City Manager; Greg Stephens, City Attorney; Chris Tschirki, Public Works Director; Karl Hirst, Recreation Director; Scott Gurney, Fire Chief; Gary Giles, Police Chief; Charlene Crozier, Library Director; Steve Earl, Deputy City Attorney; Sam Kelly, City Engineer; Jason Bench, Planning Division Manager; Ryan Clark, Economic Development Manager; Jason Adamson, Risk Manager; Steven Downs, Assistant to the City Manager; and Taraleigh Gray, Deputy City Recorder

EXCUSED

Councilmembers Margaret Black and Brent Sumner.

Agenda Review

The City Council reviewed the items on the agenda.

City Council New Business

Mayor Brunst said there were a conversation between the Neighborhoods in Action and Orem Community Hospital to create a community garden using space at the Orem Community Hospital complex. The garden may be accompanied by the set-up of a farmers market.

Mr. Davidson said the hospital had a contractual agreement with the city to use some of that green space for recreation purposes.

Mayor Brunst said the idea was not meant to impact recreation at all.

The Council adjourned at 5:55 p.m. to the City Council Chambers for the regular meeting.

6:00 P.M. REGULAR SESSION

CONDUCTING Mayor Richard F. Brunst, Jr.

ELECTED OFFICIALS Councilmembers Hans Andersen, Tom Macdonald, Mark E Seastrand, David Spencer, and Brent Sumner

APPOINTED STAFF Jamie Davidson, City Manager; Brenn Bybee, Assistant City Manager; Greg Stephens, City Attorney; Chris Tschirki, Public Works Director; Karl Hirst, Recreation Director; Scott Gurney, Fire Department Director; Gary Giles, Police Department Director; Charlene Crozier, Library Director; Steve Earl, Deputy City Attorney; Jason Bench, Planning Division Manager; Steven Downs, Assistant to the City Manager; Donna R. Weaver, City Recorder; and Taraleigh Gray, Deputy City Recorder

EXCUSED Councilmember Margaret Black

INVOCATION /

INSPIRATIONAL THOUGHT Wayne Burr

PLEDGE OF ALLEGIANCE James Fawcett

APPROVAL OF MINUTES

Mr. Macdonald **moved** to approve the minutes from the following meetings:

- Special City Council Meeting – June 19, 2014
- Special City Council Meeting – June 24, 2014
- Special City Council Meeting – June 26, 2014
- City Council Meeting – July 8, 2014
- City Council Meeting – July 22, 2014

Mr. Andersen **seconded** the motion. Those voting aye: Hans Andersen, Richard F. Brunst, Tom Macdonald, Mark E. Seastrand, David Spencer, and Brent Sumner. The motion **passed**, 6-0.

MAYOR'S REPORT/ITEMS REFERRED BY COUNCIL

Upcoming Events

The Mayor referred the Council to the following upcoming events, as listed in the agenda packet:

- Timpanogos Storytelling Festival
- Neighborhood Cleanup
- Employee Appreciation Lunch
- City of Orem Annual Safety Fair

- Veterans Day program

Mr. Davidson mentioned the free community movie night at Brent Brown ballpark.

Appointments to Boards and Commissions

Mr. Seastrand **moved** to reappoint Aaron Orullion to the Beautification Advisory Commission. Mr. Macdonald **seconded** the motion. Those voting aye: Hans Andersen, Richard F. Brunst, Tom Macdonald, Mark E. Seastrand, David Spencer, and Brent Sumner. The motion **passed**, 6-0.

Recognition of New Neighborhoods in Action Officers

No new Neighborhood in Action officers were recognized.

PROCLAMATION – Orem Senior Friendship Month

Mayor Brunst read a proclamation observing September as Orem Senior Friendship Month.

Mr. Andersen **moved** to accept the proclamation. Mr. Seastrand seconded the motion. Those voting aye: Hans Andersen, Richard F. Brunst, Tom Macdonald, Mark E. Seastrand, David Spencer, and Brent Sumner. The motion **passed**, 6-0.

Gina Bertelsen, Senior Friendship Center Program Coordinator, offered appreciation on behalf of the senior center members for the recognition.

PERSONAL APPEARANCES

Time was allotted for the public to express their ideas, concerns, and comments on items not on the agenda. Those wishing to speak should have signed in prior to the meeting, and comments were limited to three minutes or less.

Roger Scanland voiced concern about a developer, Matt Baker, who was in the process of developing a hospice facility on property at 375 East 2000 South which was near his home.

Melody Andersen said Orem City should not be handing out corporate welfare in the form of a subsidy to University Mall.

Ren Wightman said he was the voice of a large group showing opposition about the facility being built at 375 East 2000 South in Orem. He expressed frustration that City officials were not taking the issue seriously.

Julie Coleman said she was concerned about the lack of communication with residents. She asked that the City find a different way of communicating with the neighborhoods.

Becky Johnson asked the City Council for help to prohibit the food trucks from setting up on the property near Garden Park because of the constant loud vibrating noise. She said she had talked to Development Services about her concern, they said they were in the process of developing regulations.

Wayne Burr spoke against the ideas of public subsidies. He asked the Council to vote against giving more money to the mall.

Sharon Mead echoed Mr. Wightman's comments and spoke of concern for the lack of transparency. She said she was never given notice that the project being erected near her home was going to be a business. She said she was concerned that her curb would be occupied by individuals at the business, and that the business was a threat to young children. She said the neighbors had no recourse.

Rebecca Fawcett expressed gratitude for the Merry Christmas sign that was displayed last Christmas season. She asked for the Council to find a way to encourage the traditions of the seasons.

Nicole Seegmiller asked for permission to display a nativity on the City Center property and said the City should be pleased with the faith within the community.

CITY MANAGER APPOINTMENTS

Mr. Davidson asked for the City Council's advice and consent on his appointments of Gary Giles as Police Department Director and Scott Gurney as Fire Department Director.

Mr. Seastrand **moved** to provide the Council's advice and consent on the appointments of Gary Giles and Scott Gurney. Mr. Andersen **seconded** the motion. Those voting aye: Hans Andersen, Richard F. Brunst, Tom Macdonald, Mark E. Seastrand, David Spencer, and Brent Sumner. The motion **passed**, 6-0

Donna Weaver, City Recorder, gave the oath of office to Mr. Giles and Mr. Gurney.

CONSENT ITEMS

RESOLUTION – Accept Annexation Petitions for Further Consideration – Trail Head Addition – 1250 E Cascade Drive

Mr. Seastrand **moved**, by resolution, to accept the annexation petition. Mr. Andersen **seconded** the motion. Those voting aye: Hans Andersen, Richard F. Brunst, Tom Macdonald, Mark E. Seastrand, David Spencer, and Brent Sumner. The motion **passed**, 6-0.

SCHEDULED ITEMS

6:20 P.M. PUBLIC HEARING – Agricultural Overlay Zone

ORDINANCE – Amending Section 22-12-6(D) pertaining to the location of barns, pens, and corrals in the Agriculture Overlay zone

Mr. Bench presented to Council a request to amend section 22-12-6(D) of the Orem City Code. Animals such as horses, cattle, and sheep were currently allowed in residential zones on lots of

one acre or larger. Section 22-6-1(C) outlined the distances that barns, pens and corrals in a residential zone must be set back from a dwelling or a public street.

Section 22-12-6(D) also provided that animals were allowed in the Agriculture Overlay (AG) zone in accordance with the standards of Section 22-6-1(C). However, the AG zone had setback requirements for barns, pens and corrals that were different from those required under 22-6-1(C) for residential zones. For example, in the AG zone, a barn must be set back 200 feet from the nearest dwelling and 140 feet from any public street while a barn in a residential zone only had to be set back 100 feet from a dwelling or public street.

The proposed amendment would modify Section 22-12-6(D) to make the setback requirements for barns, pens and corrals in the AG zone the same as in residential zones.

The total area of the AG overlay zone in the City is 12.08 acres. The proposed change was as follows:

22-12-6. Agriculture Overlay Zone.

D. **Animals.** Animals shall only be allowed in the agriculture overlay zone in accordance with the standards set forth in Section 22-6-10(C). Accessory structures for the keeping of animals and fowl such as barns, pens, and corrals shall be located at least one hundred feet (100') from the nearest dwelling and from any public street. The raising and sheltering of farm animals shall be limited to the buildable area of the lot and shall be permitted only where the use thereof and the products therefrom are primarily for the use or home consumption of the landowners or occupant of the lot. Appropriate fencing shall be provided to ensure that all animals are kept within the buildable area of the lot.

Advantages

- Harmonizes the setback requirements for barns, pens and corrals in the AG zone and residential zones.

Disadvantages

- None identified

Mayor Brunst opened the public hearing. No one came forward so Mayor Brunst closed the public hearing.

Mr. Seastrand **moved** that the City Council amend, by ordinance, amend Section 22-12-6(D) pertaining to the location of barns, pens, and corrals in the Agriculture Overlay zone. Mr. Spencer **seconded** the motion. Those voting aye: Hans Andersen, Richard Brunst, Tom Macdonald, Mark E. Seastrand, David Spencer, and Brent Sumner. The motion **passed**, 6-0.

6:30 P.M. PUBLIC HEARING – Surplus Property - Midtown

RESOLUTION - Declaring Unit P1 and Unit P2 of the Midtown Village First Supplemental Condominium Plat (the “City Parking Units”) surplus, approving the Conveyance of the City Parking Units to Coronado Village, LLC in accordance with the terms of a development agreement, and authorizing the City Manager to execute a development agreement with Coronado Village, LLC pertaining to the disposition of the City Parking Units

Mayor Brunst recused himself from the discussion and vote. He left the meeting at 6:51 p.m.

Steve Earl gave background on the agenda item and explained City staff's request that the City Council declare Unit P1 and Unit P2 of the Midtown Village First Supplemental Condominium Plat (the "City Parking Units") surplus, approve the conveyance of the City Parking Units to Coronado Village, LLC in accordance with the terms of a development agreement and authorize the City Manager to execute a development agreement with Coronado Village, LLC pertaining to the disposition of the City Parking Units.

The Midtown Village project was originally conceived as a mixed-use condominium project at 320 South State Street. In order to facilitate development of the project, the City created a special improvement district (SID) pursuant to which the City helped finance construction of the first level of underground parking. The first level of underground parking was divided into three separate condominium units—Unit P1 (under the south tower), Unit P2 (under the north tower) and Unit P3 (intended to go under the west tower)(hereinafter collectively referred to as the "City Parking Units"). The City was to own the City Parking Units although Unit P3 was never constructed.

The City issued bonds to finance the City's portion of the cost of the City Parking Units. The City then levied assessments against all of the residential and commercial condominium units in the project which required the owners of the units to make annual assessment payments which were used to pay off the City-issued bonds. Annual assessment payments had been made to the City beginning in 2008 and the last annual assessment payment is due in 2028.

Coronado Village, LLC/The Ritchie Group ("Coronado Village") had a contract to purchase the project and has proposed to modify the original concept plan to make completion of the project financially viable. The City Council approved amendments to the PD-23 zone on July 8, 2014, that would allow Coronado Village to proceed with its proposed plan.

Coronado Village had also proposed to pay off the SID assessments in their entirety at the time of closing on the purchase of the property. That would be a significant benefit to the City as it would allow the City to retire the SID bonds and would relieve the City of the burden of administering the SID, managing the collection of assessments, and dealing with issues related to the bonds.

Once the SID bonds were paid off and retired, City staff and Coronado Village believe that it would be in both parties' interest for the City to convey its interest in the City Parking Units to Coronado Village. From the City's perspective, conveyance of the City Parking Units to Coronado Village would relieve the City of the burden of operating and maintaining the City Parking Units. Although maintenance costs to date have been minimal, there was always the risk of incurring substantial structural maintenance costs as the project ages. Divesting itself of the City Parking Units would also relieve the City from future liability for injuries that might be made based on a claim of inadequate security, lighting maintenance, etc. In short, for the City, ownership of the City Parking Units could be seen as more of a liability than an asset.

For Coronado Village, receiving ownership of the City Parking Units would allow them to consolidate their ownership of the entire project and would give them greater control and flexibility in managing the project.

City staff had prepared a proposed development agreement (the “Development Agreement”) that set forth the terms under which staff proposed to convey the City Parking Units to Coronado Village. A copy of the proposed Development Agreement had been included with the agenda packet. The principal terms of the agreement were as follows:

1. Coronado Village agreed to place into escrow at the time of closing, an amount sufficient to retire the SID bonds including all interest and fees. This amount would be immediately released to the City and used to pay off the SID bonds. The amount required to retire the SID bonds was \$2,987,135.10. Coronado Village would be given a credit toward this amount for the amount held in the reserve fund (approximately \$296,315.60) and would also receive a credit for the sum held by the City in the operations and maintenance (O&M) fund (approximately \$177,255.54).
2. After the SID bonds had been retired, the City would convey the City Parking Units to Coronado Village by quit claim deed. The deed would contain a restriction that required the City Parking Units to be available for parking by the public free of charge between the hours of 6:00 a.m. and 8:00 p.m. This helps preserve the original intent of the SID that the City Parking Units be open to the public.
3. The agreement was made subject to the condition that Coronado Village close on the purchase of the Midtown property by October 31, 2014. If it did not close on the property by that date, the agreement would become null and void.
4. Coronado Village agreed to assume all operation, maintenance and security for the City Parking Units and agreed to indemnify the City from any claims that arise after the conveyance.
5. Coronado Village and the City were relieved from any obligation under the 2006 development agreement with the original developer. This development agreement dealt with issues related to construction, operation, security, and maintenance of the City Parking Units and will be unnecessary if the City Parking Units are conveyed to Coronado Village.

City staff believed the City would receive fair value for the conveyance through Coronado’s agreement to (1) pay off the entire remaining balance of the SID assessments and thereby allow the City to retire the SID bonds approximately 14 years ahead of schedule, (2) accept a deed restriction requiring the City Parking Units to be open to free public parking between 6:00 a.m. and 8:00 p.m., (3) assume all obligations related to operation, maintenance and security for the City Parking Units and (4) indemnify the City against any future claims that may arise after the conveyance.

Before disposing of any significant parcel of real property, the City was required to follow the procedures outlined in Orem City Code Section 2-7-10(D). That section required the City Council to declare the parcel surplus and to consider the proposed disposition of the property at a City Council meeting at which public comment is allowed. The City may dispose of real property by sale, trade, lease or other means deemed to be in the best interest of the City.

City staff recommended that the City Council, by resolution, declare the City Parking Units at Midtown Village surplus, approve the conveyance of the City Parking Units to Coronado Village, LLC in accordance with the terms of the Development Agreement and authorize the City Manager to execute the Development Agreement with Coronado Village, LLC pertaining to the disposition of the City Parking Units.

Mr. Macdonald asked about reserve fund credits and how the credits were created.

Mr. Earl said reserve funds were created at the time the bonds were created.

Mr. Macdonald said he understood that it did not come out of the City's pocket, and would not go back into the City's pocket.

Mr. Earl said the bonds were paid by the owner of the property. Since the City was to own P1 and P2, the City was responsible for the operation and maintenance. He said the owner paid the City so the City could pay for the operation and maintenance.

Mr. Macdonald asked if the new group would indemnify the City, and if there was a bond posted with the Ritchie's group indemnification.

Mr. Ritchie said there was insurance in place for that purpose.

Mr. Macdonald said he gathered that, as long as there was enough insurance in place, the Ritchie group could indemnify the City.

Mr. Earl added that the indemnification provision was more out of an abundance of caution for the rare circumstance that the City could not anticipate or foresee.

Mr. Sumner asked if annual bond payments were current.

Mr. Earl said the 2014 payment had not been made, but all the prior years had. He said he believed the payment had not been made to that point because of the anticipation that the Ritchie group would pay it all off in its entirety when they closed on the property.

Mr. Sumner asked if there were any extensions on the October 31, 2014, deadline.

Mr. Ritchie said they were anticipating closing on September 30, 2014. The Ritchie Group asked for an extension so it would have enough time to get everything done correctly.

Mr. Earl said if the Ritchie Group had not closed on the property by October 31, 2014, then the entire arrangement would become null and void. Should the Ritchie Group need more time, they would have to come back to the City Council for another extension.

Mr. Andersen opened the public hearing.

Bret Swalberg asked what was in it for the Ritchie Group to have ownership of the parking structure that they only use for ten hours a day.

Mr. Ritchie said from a lender perspective, a lender would rather have control of the entire asset.

Mr. Earl said the assessments themselves were a lien against the property and were in first position. Banks preferred it when assessments were paid first so no one was in front of the bank where liens were concerned.

Mr. Andersen closed the public hearing and called for questions from the Council. When there were no questions posed, Mr. Andersen called for a motion.

Mr. Seastrand **moved** that the City Council, by resolution, (1) declare the City Parking Units, P1 and P2, of Midtown Village surplus; (2) approve the conveyance of the City Parking Units to Coronado Village, LLC in accordance with substantial conformance with the terms outlined in the Development Agreement; and (3) authorize the City Manager to execute the Development Agreement with Coronado Village, LLC pertaining to the disposition of the City Parking Units. Mr. Spencer **seconded** the motion.

Mr. Sumner asked about what happened when City property was declared surplus.

Mr. Stephens said declaring property “surplus” allowed for the City Council to decide how that property should be disposed of. In the current instance, it was not like raw ground where anyone could come in and develop it. Due to the existing restrictions on the property in question, the appraisal said the City had no real value, and the only entity that could realistically use the property was the developer of the project.

Mr. Andersen called for a vote on the motion. Those voting aye: Hans Andersen, Tom Macdonald, Mark E. Seastrand, David Spencer, and Brent Sumner. The motion **passed**, 5-0.

Mayor Brunst returned to the meeting at 7:11 p.m.

ORDINANCE – Amending Article 2-7 of the Orem City Code – Audit & Procurement

RESOLUTION – Authorizing the Amendments to the City of Orem Audit Policy

The City Council chose to discuss the two agenda items in the same discussion, though separate motions were made for each corresponding agenda item.

Richard Manning presented to Council a staff request to amend Article 2-7 of the Orem City Code, which outlined the process for procuring property and services for the benefit of the City of Orem, and a request to approve a resolution authorizing amendments to the City of Orem Audit Policy.

It was usually in the public’s best interest to have a wide range of competitive bidders participate in the procurement process. In an attempt to facilitate a competitive bid process and in order to comply with state law, the following amendments were proposed:

1. The City, at the time, published notices inviting competitive sealed bids: (1) in a newspaper of general circulation; (2) on the City’s bulletin board; and (3) to all suppliers on the bidders’ list. See Orem City Code Section 2-7-4(A)(3)(1-3). Newspaper circulation was down nationwide so to ensure that an adequate number of potential bidders received notice of City projects, the Administrative Services Director proposed that competitive sealed bid notices be given either in a newspaper of general circulation or published with an outside sources entity whose purpose was to facilitate the advertisement and recruitment of competitive bidders. These outside source entities collect relevant data from municipalities as well as potential bidders and

attempt to match bidders with municipalities and projects. It was anticipated that using these outside source entities to help provide notice would result in more potential bidders receiving notice of City projects. In addition, Orem City Code Section 2-7-4(A)(3)(b)(iii) would be amended to require the notice to be posted on the City's website. Finally, subsection J would be added to Orem City Code Section 2-7-3 to grant the City Manager the authority to establish relationships with and select appropriate outside source entities to assist in advertising competitive sealed bids.

2. In addition to providing more prolific notice to potential competitive sealed bidders, Article 2-7 would be amended to provide additional structure to bidders responding to requests for proposals. Orem City Code Section 2-7-4(B)(3) would be amended to require the City to post requests for proposals for no less than ten days.
3. State law required that the City have a certified public accountant (CPA) perform an annual fiscal year financial audit. Historically, the City had entered into contracts with a CPA or accounting firm to provide this service to the City for a 3-5 year period. The Administrative Services Director wanted to enlarge the potential service contract length to 5-7 years and give contract renewal authority to the City's Audit Committee instead of the City Council. As provided for in the City of Orem Audit Policy, the City's Audit Committee would include the following three individuals: (1) the City Manager or Assistant City Manager; (2) the Mayor; and (3) a member of the City Council.
4. Under state law, the City was required to follow certain bid procedures when seeking bids for building improvements and public works projects that exceeded a certain bid limit. State law required that the bid notice for building improvement and public works projects be published on the public notice website at least 5 days before opening bids pursuant to Utah Code Section 45-1-101. The Administrative Services Director proposed that Orem City Code 2-7-9(A)(4) be amended to reflect this noticing requirement.

State law required the City to have a certified public accountant (CPA) perform an annual fiscal year financial audit. Orem City Code Section 2-7-6(A)(2) established the requirements for entering into an agreement with an auditor to perform the audit. In order to comply with State law and to provide better oversight of the audit process, the Administrative Services Director proposed that the City Council pass a resolution approving the following amendments to the City of Orem Audit Policy:

1. Historically, the City had entered into contracts with a CPA or accounting firm to perform the fiscal year financial audit for a 3-year period with the option of renewing the contract for an additional 2 years. The Administrative Services Director wanted to enlarge the potential service contract length to 5 years with the option of renewing the contract for 2 additional one-year periods. At the end of the 7-year period (or a lesser period if the contract is not renewed), it would be the City's policy to hire (through the bid process) a different auditor.
2. The authority to renew the auditing contract would be given to the City's Audit Committee. The City's Audit Committee would include the following three individuals: (1) the City Manager or Assistant City Manager; (2) the Mayor; and (3) a member of the City Council.
3. The Administrative Services Director proposed a number of other nonsubstantive changes to the policy to maintain consistency throughout the document.

Mayor Brunst asked what would happen after seven years, should the current audit firm want to serve the City again.

Mr. Manning said that firm would be allowed to submit a proposal after it had been away from serving the City for at least one rotation, which was five to seven years.

Mr. Macdonald said he gathered the City could end an agreement prior to its expiration date if unhappy with a provider.

Mr. Sumner asked if the City would no longer use news services for advertisement.

Mr. Manning said that, in the past several years, the notices were sent to the paper and were also sent directly to firms the City was aware of. Eliminating the advertisement via newspapers would be an option.

Mr. Sumner asked whose decision it was to eliminate the use of newspapers for advertisement.

Mr. Manning said it was ultimately the City Manager's decision, but it would rest with who was instigating the process, often times the City engineer. He said advertising in other ways would be a cost-saving measure.

Mr. Sumner asked how much the legal notices cost.

Mr. Manning said the least costly legal notice was \$100, and dozens of those legal notices were sent per year. Over the course of the year the City spent \$10,000 to \$15,000 per year on legal notices.

Mr. Sumner said most businesses looked in newspapers because that was where the legal notices were published. He said his concern was that businesses would not know where to find the legal notices if the City did not run the advertisements in the newspapers.

Mr. Manning said businesses were tuning in to electronic services.

Bill Bell, Development Services Director, said the City had been using BidSync for the past year, and had seen success during that time and cost saving.

Mr. Sumner said he was concerned about the transparency of the legal notice process.

Mr. Davidson said Orem was trying to follow the State's example. The City's intent was two-fold: (1) the cost; and (2) the reach of the bid process, which would allow more individuals to bid. Staff was making the effort to formalize what was quickly becoming a common and preferred business practice.

Mr. Seastrand **moved**, by ordinance, to amend Article 2-7 of the Orem City Code. Mr. Spencer **seconded** the motion. Those voting aye: Hans Andersen, Richard F. Brunst, Tom Macdonald, Mark E. Seastrand, and David Spencer. Those voting nay: Brent Sumner. The motion **passed** 5-1.

Mr. Andersen **moved**, by resolution, to approve the amendments to the City of Orem Audit Policy. Mr. Macdonald **seconded** the motion. Those voting aye: Hans Andersen, Richard F. Brunst, Tom Macdonald, Mark E. Seastrand, David Spencer, and Brent Sumner. The motion **passed**, 6-0.

COMMUNICATION ITEMS

Mayor Brunst drew the Council's attention to the monthly financial summaries for June and July.

CITY MANAGER INFORMATION ITEMS

Mr. Davidson drew the Council's attention to the upcoming Storytelling Festival and encouraged the Council to attend and participate in the activities.

Mr. Davidson said staff had had an opportunity to work with Zion's Bank in the development of the Economic Strategic Plan for the City of Orem. Two open houses were held, in addition to a walk-in workshop. The purpose of the workshop and open houses was to gauge opinion and garner ideas for the plan moving forward.

Mr. Davidson invited Mr. Downs to discuss possible rebranding opportunities for the City.

Mr. Downs said the City had obtained a draft RFP in order to gauge what the cost would be in a rebranding process. He said there would be no financial obligation to go out to RFP, and that staff's intent was to determine if the Council was in favor of the idea to get more information.

Mayor Brunst asked about the cost for consulting and the branding itself. Changing letterhead, signs, and banners could be expensive. Before considering it, he wanted to see the physical cost and the many areas it would affect.

Mr. Downs said the cost was dependent on the RFP. Lehi City went through a similar process, and it cost approximately \$11,000.

Mayor Brunst said to contact Provo and see what costs were entailed.

Mr. Davidson added that the City was defining the course it would take in the future, and that it would be good to leverage the City's "brand." The City could do that in an economical way and that the present time seemed like an opportune time to consider it. He said implementation could be done incrementally, over time.

Mr. Macdonald asked if the City should at least get some proposals in, which cost was only time.

Mayor Brunst said to get a plan for the cost, the time, and ideas.

Mr. Sumner echoed Mayor Brunst and said it would be good to have a price tag.

Mr. Spencer said he thought an RFP would be "no harm, no foul." He said the City had to start somewhere, and an RFP was a good way to start.

Mr. Davidson said his concern was directing staff down a path if the Council was not going to look at it.

Mayor Brunst and Mr. Sumner said they were mainly concerned about the costs involved.

Mr. Seastrand said his company just went through a rebranding experience, and it ended up being a positive exercise for the company to reanchor itself.

Mayor Brunst asked when the last time the logo was done.

Mr. Seastrand said he was not exactly sure but that he suspected it was late 1970s or early 1980s.

ADJOURNMENT

Mr. Seastrand **moved** to adjourn the meeting. Mr. Andersen **seconded** the motion. Those voting aye: Hans Andersen, Richard F. Brunst, David Spencer, and Brent Sumner. The motion **passed**.

The meeting adjourned at 7:42 p.m.

Donna R. Weaver, City Recorder

Approved: September 9, 2014